

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

ROBERT MILLER, #866293,

Plaintiff,

v.

BRIAN COLLIER, ET AL.,

Defendants.

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Case No. 6:19-cv-270-JDK-KNM

**ORDER ADOPTING REPORT AND RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE**

Plaintiff Robert Miller is an inmate at the Skyview Unit of the Texas Department of Criminal Justice (TDCJ). Miller filed this pro se civil rights lawsuit pursuant to 42 U.S.C. § 1983 alleging purported violations of his constitutional rights. Miller also seeks to proceed *in forma pauperis*.

This case was referred to United States Magistrate Judge K. Nicole Mitchell pursuant to 28 U.S.C. § 636. On June 26, 2019, the Magistrate Judge issued a Report and Recommendation (Docket No. 7) recommending denial of Plaintiff's motion to proceed *in forma pauperis* and dismissal of this action with prejudice for purposes of *in forma pauperis* proceedings pursuant to 28 U.S.C. § 1915(g). The Clerk of Court sent a copy of this Report to Plaintiff at his address and a return receipt indicates Plaintiff received the Report on July 3, 2019. (Docket No. 9).


This Court reviews the findings and conclusions of the Magistrate Judge de novo only if a party objects within fourteen days of service of the Report and Recommendation. 28 U.S.C. § 636(b)(1). In conducting a de novo review, the Court

examines the entire record and makes an independent assessment under the law. *Douglass v. United Servs. Auto. Ass'n*, 79 F.3d 1415, 1430 (5th Cir. 1996) (*en banc*), *superseded on other grounds by statute*, 28 U.S.C. § 636(b)(1) (extending the time to file objections from ten to fourteen days). Here, Plaintiff did not file objections in the prescribed period. The Court therefore reviews the Magistrate Judge's findings for clear error or abuse of discretion and reviews her legal conclusions to determine whether they are contrary to law. *See United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989), *cert. denied*, 492 U.S. 918 (1989) (holding that, if no objections to a Magistrate Judge's Report are filed, the standard of review is "clearly erroneous, abuse of discretion and contrary to law").

Having reviewed the Magistrate Judge's Report and Recommendation, the Court finds no clear error or abuse of discretion and no conclusions contrary to law. The Court therefore adopts the Report and Recommendation of the United States Magistrate Judge (Docket No. 7) as the findings of this Court.

Accordingly, it is hereby **ORDERED** that the Magistrate Judge's Report (Docket No. 7) be **ADOPTED**, that Plaintiff's motion to proceed *in forma pauperis* (Docket No. 6) be **DENIED**, and that the above-styled civil action be **DISMISSED WITH PREJUDICE** for purposes of *in forma pauperis* proceedings pursuant to 28 U.S.C. § 1915(g)—but without prejudice as to the refiling without seeking *in forma pauperis* status.

So **ORDERED** and **SIGNED** this **20th** day of **August, 2019**.


JEREMY D. KERNODLE
UNITED STATES DISTRICT JUDGE